

REMARKS

Reference is made to a telephone conversation which the undersigned had with Examiner Gantt on September 14, 2004. During that telephone conversation, the undersigned indicated that the applicant was going to file a responsive amendment to the outstanding Final Rejection which would include new claims not previously considered by the Examiner and Amendments to the current claims. The total number of claims was indicated to the Examiner as being increased.

The undersigned asked the Examiner if, under those circumstances, the Examiner would make an Office Action in a Request for Continued Examination, which was responsive to the final rejection, a new final rejection. The Examiner indicated that he would not do so. Therefore, Applicants are proceeding with a Request for Continued Examination which includes the present Amendment which responds to the Final Rejection.

The present invention is a method and system for providing an identification of a broadcast piece of information to a person receiving the broadcast and a method and system for providing an identification of a musical piece to a person listening to a radio station which is playing the musical piece in a radio broadcast. An embodiment of a method of providing an identification of a broadcast piece of information to a person receiving the broadcast comprises the steps of receiving with a first receiver 20 the broadcast; sending a first message containing at least a portion of the piece of information to a centralized information identification location 14 having a database 30 storing data for identifying pieces of information; comparing at least the portion of the first message with pieces of information stored in the database at the centralized information identification location; and identifying

the piece of information on the basis of the comparison. See paragraph [0021] and paragraphs [0028]-[0032] of the Substitute Specification.

Claims 1-27, 32-46 and 48-53 stand rejected under 35 U.S.C. 102(e) as being anticipated by United States Patent 5,991,737 (Chen). With respect to the grounds of rejection, the Examiner has stated in a paragraph labeled "Response to Arguments" the following:

Applicant's arguments filed 4/8/04 have been fully considered but they are not persuasive. Applicant primarily argues that the Chen reference does not have a counterpart to applicant's invention that requires the reception of a broadcast piece of information or a musical piece with at least a portion of the piece of information or musical piece being transmitted to another location where the portion is compared with the database to identify the piece of information or musical piece. Regarding applicant's argument, the examiner disagrees that Chen doesn't perform this task. Chen has a component that includes receiving a direct broadcasts of song being played on various radio stations and utilizing pattern recognition to identify the song. This is done through the use of a content identification processor as part of a processing station at that is remote from the station where the song is heard as the radio station is part of a larger network of stations. (col. 3, lines 47-64 and col. 4, lines 41-60). Chen, indeed, performs the tasks called out by applicant's claim language. Thus, the Rejection is upheld (emphasis added).

These grounds of rejection are traversed for the following reasons.

The referenced portions in Chen of column 3, lines 47-64 and column 4, lines 41-60, contrary to what the Examiner has said, do not teach "sending of a first message containing at least a portion of the broadcast piece of information to a centralized information identification location having a database for storing data identifying pieces of information" as recited in claim 1; "first message transmitting means for transmitting a first message describing the piece of information including at least a portion of the broadcast piece of information" as recited in claim 21; "receiving a telephone

message describing the musical piece containing at least a portion of the musical piece and identifying a receiving location to which identification of the musical piece is to be sent" as recited in claim 45; and "a first telephone for receiving a message describing the musical piece that has been played in a radio broadcast in the radio station including at least a portion of the musical piece and identifying a receiving location to which the location of the musical piece is to be sent (emphasis added)" and the above recitations in newly submitted independent claims 60-64.

What is described in column 3, lines 47-64 and column 4, lines 41-60 is that the content identification processor 34 at the processing station 22 has the capability of monitoring the exact scheduling of all media-related events down to the second in all major geographical regions both domestically and internationally, the capability of processing receipt of orders originated by a consumer by means of an automated or manual phone processing center that can provide the consumer with radio or visual confirmation regarding the actual content being ordered and then processing the order by receiving consumer identification in one form or another and the content identification processor tracks and identifies the content of numerous items of broadcast information on a continuous basis and stores the content that corresponds to each item of broadcast information. However, column 3, in preceding lines 21-43, clearly explain that the consumer transmitter 18 does not transmit the claimed message containing at least a portion of the broadcast piece of information. Instead, what is transmitted is a code to tell the content identification processor 34 which content the consumer is interested in

purchasing. Nowhere is there any description of any portion of the content of the broadcast piece being sent since the examples that are given are "dial*CD™1079 (for FM) radio station 107.9" to indicate the consumers interest...the consumer can dial *TV™ NBC (National television network NBC) to indicate the consumer's interest" which is not part of the broadcast content received by consumer receiver 16.

Accordingly, as stated earlier in the April 5, 2004 Amendment, on page 17, in the last full paragraph therein "[e]ach of these claims substantively requires the reception of a broadcast piece of information or a musical piece with at least a portion of the piece of information or musical piece being transmitted to another location where the at least a portion of the broadcast piece of information or musical piece is compared with the database or utilized to identify the piece of information or musical piece...subject matter has no counterpart in Chen". Furthermore, the Examiner is referred to the previous discussion of Chen at the bottom of page 17, through the top of page 19 of the April 5th Amendment for further explanation of Chen being different than the claimed invention.

Since Chen et al do not utilize the claimed subject matter as previously rejected, it is submitted that the anticipation rejection of claims 1-27, 32-46 and 48-53 is erroneous.

Furthermore, each of the claims have been amended to recite receiving with a receiver and sending the message containing at least a portion of the broadcast piece of information received with the receiver which further distinguishes Chen et al in that the at least a portion of the broadcast piece of

information is recited as being received with the claimed receiver. If the Examiner attempts to construe the code which is transmitted by the consumer transmitter 18 to be at least a portion of the broadcast piece of information such construction would be erroneous since the consumer receiver 16 is not described as receiving the coded subject matter described in column 3 of Chen et al. Accordingly, the independent claims as amended are further not anticipated for the reason that there is no disclosure of at least a portion of the broadcast piece of information being received with the claimed receiver in that with Chen et al only the code identifying the content to be ordered is transmitted to the processing station 22 by the consumer transmitter 18 which is not received by consumer receiver 16.

Moreover, there is no basis why a person of ordinary skill in the art would be led to modify the teachings of Chen et al to arrive at the subject matter of the independent claims.

The dependent claims define more specific aspects of the present invention which are neither anticipated nor rendered obvious by Chen et al.

Newly submitted claims 60 and 61 recite that the receiver stores the broadcast piece of information which is more specific than the subject matter of corresponding claims 1 and 21. These claims are patentable for the reasons set forth above with respect to claims 1 and 21.

Newly submitted claims 62 and 63 are more limited than the subject matter of corresponding claims 45 and 53 in that they additionally recite an identification unit with the person connecting to the identification unit and at least a portion of the musical piece is transmitted by the person which is not

suggested by Chen et al. These claims are patentable for the reasons set forth above with respect to claims 46 and 53.

Newly submitted claim 64 recites an identification unit based upon the system of claim 21 and is patentable for the reasons set forth above. Finally, dependent claim 65 further limits claim 64 in reciting the receiver stores the broadcast piece of information and the first message includes at least a portion of the broadcast piece of information stored with the receiver which has no counterpart in Chen et al.

In view of the foregoing amendments and remarks, it is submitted that each of the claims in the application is in condition for allowance.

To the extent necessary, Applicants petition for an extension of time under 37 C.F.R. §1.136. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 01-2135 (0171.37357X00) and please credit any excess fees to such Deposit Account.

Respectfully submitted,

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Attachments
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